

## Message Text

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ORIGIN EB-03

INFO OCT-01 ARA-03 IO-03 ISO-00 FAA-00 DOTE-00 L-03  
/013 R

DRAFTED BY EB/OT/GCP:SLYNN:LPP  
APPROVED BY EB/OT/GCP:JSLATTERY  
EB/OA/AVP:JSGRAVATT  
EB/OA:MHSTYLES  
FAA:JHSHAFFER  
L/EB:JBELLO  
ARA/ECA:SMYLES  
EB/OA/AVP:AJWHITE

-----061607 142323Z /14

O R 142243Z JUN 78  
FM SECSTATE WASHDC  
TO USMISSION GENEVA IMMEDIATE  
INFO AMEMBASSY BRASILIA  
AMCONSUL SAO PAULO  
AMCONSUL RIO DE JANEIRO

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E.O. 11652: N/A

TAGS:EAIR, BR

SUBJECT: AIRWORTHINESS CERTIFICATION OF BANDEIRANTE  
AIRCRAFT  
REF: LAVOREL/STEWART TELCON  
FOLLOWING IS REPEAT OF STATE 115392, SENT TO BRASILIA  
MAY 5, 11978 -  
REF:A)BRASILIA 2730; B) BRASILIA 3395 AND C) STATE 60186  
1. IN REPLY TO THE BRAZILIAN AIDE MEMOIRE QUOTED IN  
RETEL (A), THE EMBASSY SHOULD EMPHASIZE THAT THE FAA WILL  
PROCEED PROMPTLY WITH TYPE CERTIFICATION ACTION ON THE  
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BANDEIRANTE EMB-110-P2 WHEN EVIDENCE HAS BEEN SUPPLIED BY  
EMBRAER THAT THERE IS A U.S. PURCHASER OF THIS AIRCRAFT.

2. THE FAA WILL TAKE ACTION UPON A BRAZILIAN APPLICATION  
FOR A U.S. TYPE CERTIFICATE FOR THE BANDEIRANTE EMB-110-P2  
AIRCRAFT ON WHICHEVER OF THE FOLLOWING CERTIFICATION BASES  
EMBRAER DESIRE TO PURSUE:

A) THE REQUIREMENTS OF FEDERAL AVIATION REGULATION (FAR) PART 23 (NORMAL, UTILITY AND ACROBATIC CATEGORY) IN EFFECT IN 1969, INCLUDING AMENDMENTS 23-1 THROUGH 23-7 AND SPECIAL CONDITIONS. THIS OPTION WOULD LIMIT THE AIRCRAFT TO GENERAL, NON-COMMERCIAL USE UNDER THE GENERAL OPERATING AND FLIGHT RULES OF FAR PART 91.

B) THE REQUIREMENTS OF FAR PART 23 PLUS THE ADDITIONAL REQUIREMENTS OF FAR PART 135, APPENDIX A, WHICH WOULD MAKE THE AIRCRAFT ELIGIBLE FOR APPROVAL FOR U.S. AIR TAXI OPERATIONS UNDER THE EXISTING OPERATING RULES OF FAR PART 135. HOWEVER, THE FAA NOTICE OF PROPOSED RULE MAKING 77-17, ISSUED ON AUG. 19, 1977 TO UPGRADE THE SAFETY OF AIR TAXI OPERATIONS, CONTAINS A PROPOSED CHANGE TO PART 135 AIR TAXI OPERATION RULES WHICH WOULD PROHIBIT AN AIR TAXI CARRIER FROM OPERATING A SMALL AIRCRAFT WITH A PASSENGER CAPACITY OF TEN OR MORE THAT IS TYPE CERTIFICATED UNDER AIRWORTHINESS STANDARDS OTHER THAN PART 25 (TRANSPORT CATEGORY AIRCRAFT), UNLESS THAT AIRCRAFT WAS APPROVED FOR AIR TAXI OPERATIONS BEFORE AUGUST 19, 1977. THIS PROPOSED CHANGE IN PART 135 PERTAINS TO OPERATING REGULATIONS FOR AIRCRAFT USED IN AIR TAXI SERVICE AND NOT TO BASIC AIRWORTHINESS REQUIREMENTS FOR CERTIFICATION OF AIRCRAFT DESIGN UNDER THE U.S.-BRAZILIAN AIRWORTHINESS AGREEMENT.  
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C) THE REQUIREMENTS OF FAR PART 25, WHICH WOULD MAKE THE AIRCRAFT ELIGIBLE FOR APPROVAL FOR TRANSPORT OPERATIONS IN THE U.S.

3. THE PROPOSED CHANGE IN THE FAA RULE ON AIR TAXI OPERATIONS PERTAINS NOT ONLY TO FOREIGN PRODUCED AIRCRAFT BUT ALSO TO DOMESTICALLY PRODUCED AIRCRAFT. THE COMMITTEE ON GOVERNMENT OPERATIONS OF THE U.S. HOUSE OF REPRESENTATIVES IN A RECENT HEARING ON AIRLINE DEREGULATION AND AVIATION SAFETY STRONGLY SUPPORTED THESE UPGRADED REQUIREMENTS TO GIVE COMMUTER AIRLINE PASSENGERS A LEVEL OF SAFETY EQUIVALENT TO THAT AFFORDED SCHEDULED CERTIFICATED AIR CARRIER PASSENGERS. MOREOVER, A LEGISLATIVE PROPOSAL HAS BEEN INTRODUCED WHICH WOULD REQUIRE FAA TO TAKE INTO ACCOUNT SAFETY STANDARDS APPLICABLE TO AIR CARRIER SERVICE WHERE IT IS BEING REPLACED BY COMMUTER AIR SERVICE.

4. WITHOUT A SALE IN THE U.S. FOR THE BANDEIRANTE EMB-110-P2 THERE WOULD BE SEVERAL PROBLEMS IN FAA TYPE CERTIFICATION. 1) THE U.S.-BRAZILIAN AIRWORTHINESS AGREEMENT OF JUNE 16, 1976 APPLIES ONLY TO CIVIL

AERONAUTICAL PRODUCTS PRODUCED IN ONE CONTRACTING STATE AND EXPORTED TO THE OTHER CONTRACTING STATE. 2) FEDERAL AVIATION REGULATION 21.29 AND CLARIFYING FAA POLICY ISSUED IN AUGUST 1976 PRECLUDE THAT AGENCY FROM ACCEPTING AN APPLICATION FOR TYPE CERTIFICATION OF A FOREIGN PRODUCT

UNLESS BONA FIDE EVIDENCE IS PRESENTED THAT THE PRODUCT IS TO BE IMPORTED INTO THE US. (3) FAA CANNOT AFFORD TO USE ITS MANPOWER FOR TYPE CERTIFICATION OF FOREIGN PRODUCTS IF THEY ARE NOT GOING TO BE SOLD IN THE US. IT COULD APPEAR THAT THE TYPE CERTIFICATION BY OTHER COUNTRIES OF THE EMB-110-P2, MENTIONED IN THE FOURTH PARAGRAPH OF THE BRAZILIAN AIDE-MEMOIRE, WAS BASED ON SALES TO THOSE COUNTRIES.

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5. FYI. FAA BELIEVES THAT ITS CERTIFICATION OF FOREIGN PRODUCTS NOT DESTINED FOR THE US CAN BE EXPECTED TO CAUSE US MANUFACTURERS TO LOSE SALES TO THIRD COUNTRIES ON THE BASIS OF THE FAA "GOODHOUSEKEEPING" SEAL OF APPROVAL. CONSEQUENTLY THE US MANUFACTURERS AGREE WITH THE FAA "CUSTOMER FIRST" POLICY AND FAR 21.19. FURTHERMORE, FAA HAS NO REASON TO BELIEVE THAT THIS POLICY WILL AFFECT SALES OF LARGE US AIRCRAFT TO BRAZIL. END FYI.

6. AS EMBASSY'S CHARGE HAS ALREADY INFORMED AMBASSADOR DE LIMA, FAA REGULATIONS ARE NOT INFLUENCED BY CESSNA'S UNHAPPINESS OVER ITS LACK OF ACCESS TO THE BRAZILIAN MARKET. CHRISTOPHER

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## Message Attributes

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**Capture Date:** 01 jan 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** AIRCRAFT, LICENSES  
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**Copy:** SINGLE  
**Draft Date:** 14 jun 1978  
**Decaption Date:** 01 jan 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 20 Mar 2014  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
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**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
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**Type:** TE  
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**Review Markings:**  
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